



FEDERAL MARITIME COMMISSION

[DOCKET NO. 17-07]

PORT ELIZABETH TERMINAL & WAREHOUSE CORP.

v.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

NOTICE OF FILING OF COMPLAINT AND ASSIGNMENT

Notice is given that a complaint has been filed with the Federal Maritime Commission (Commission) by Port Elizabeth Terminal & Warehouse Corp., hereinafter “Complainant,” against The Port Authority of New York and New Jersey, hereinafter “Respondent.” Complainant states it is “a corporation organized under the laws of the State of New Jersey” and, as a marine terminal operator, “it provides warehousing and other terminal services and facilities to other marine terminal operators and common carriers handling thousands of shipping containers that enter or depart through the Port of New York and New Jersey.” Complainant alleges that Respondent is “a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States, existing under the laws of the States of New Jersey and New York...” and “is a marine terminal operator...and controls virtually all of the common carrier served terminal facilities located within the Port of New York and New Jersey.”

Complainant alleges that it has “over these past forty-two (42) years, entered into numerous Leases, agreements, and supplements to agreements [with the Respondent]

based upon the parties' needs and to advance the parties' mutual commercial and business interests." Complainant further alleges that as a result of Respondent's requests to Complainant to vacate warehouse space, and undue favoring of another marine terminal operator, Respondent has violated the Shipping Act, 46 U.S.C. § 41106(2) and (3) and 41102(c), because:

- "[Respondent] has given undue or unreasonable preference or advantage to other Marine Terminal Operators and has imposed an undue or unreasonable prejudice or disadvantage upon [the Complainant]".
- "[Respondent] has unreasonably refused to deal and negotiate with [the Complainant]".
- "[Respondent] has failed to 'establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property'".

Complainant seeks "an order be made commanding [Respondent] to cease and desist from the aforementioned violations of the Shipping Act," reparations, and other relief. The full text of the complaint can be found in the Commission's Electronic Reading Room at www.fmc.gov/17-07/.

This proceeding has been assigned to the Office of Administrative Law Judges. The initial decision of the presiding officer in this proceeding shall be issued by July 26, 2018, and the final decision of the Commission shall be issued by February 11, 2019.

Rachel E. Dickon
Assistant Secretary
Billing Code: 6731-AA

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